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7 Counterclaimant

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11 BETWEEN THE LINES
12 PRODUCTIONS, LLC a California
limited liability company,

13 Plaintiff,

14 v.

15 LIONS GATE ENTERTAINMENT
16 CORP., a British Columbia corporation,
and SUMMIT ENTERTAINMENT,
17 LLC, a Delaware limited liability
company,

18 Defendants.
19

20
21 AND RELATED COUNTERCLAIMS.

Case No. 2:14-cv-00104-R (PJWx)

**DEFENDANT AND
COUNTERCLAIMANT SUMMIT
ENTERTAINMENT, LLC'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION *IN LIMINE* NO. 1 TO
EXCLUDE NON-DISCLOSED
WITNESSES**

Hon. Judge Manuel L. Real

Hearing Date: November 25, 2014
Time: 9:00 a.m.
Ctrm: 8

Complaint filed: Dec. 16, 2013
Counterclaims filed: Jan. 27, 2014
Trial Date: Nov. 25, 2014

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1 **I. INTRODUCTION**

2 At 11:52 p.m. PST on October 6, 2014 – the discovery cut-off – Plaintiff and
3 Counter-Defendant Between the Lines Productions, LLC (“BTL”) filed its witness
4 list in this case. (Dkt. 84.) BTL disclosed 32 witnesses on its list. (*Id.*) Prior to the
5 filing of its witness list, BTL had never disclosed, in its initial disclosures or
6 otherwise, its intent to rely upon the following 19 witnesses:

- 7 1. Roger Senders, Esq.
- 8 2. Theo Dumont
- 9 3. Gabe Gomez
- 10 4. Clint Keepin
- 11 5. Richie Jr. Million
- 12 6. Giorgio Caridi
- 13 7. Alessandra [*sic*] Marinelli
- 14 8. Michael C. Donaldson, Esq.
- 15 9. Bruce Nash
- 16 10. Craig Moss
- 17 11. Thomas Gewecke
- 18 12. Mona Metwalli
- 19 13. Ryan Black
- 20 14. Richard Wolff
- 21 15. Susan M. Hwang, Esq.
- 22 16. Arnon Milchan
- 23 17. Jill Pietrini, Esq.
- 24 18. Georgina Ledvinka
- 25 19. Natalie Wilson, PhD

26 (Dkt. 84.)

27 BTL has no justification for its failure to disclose 19 witnesses until mere
28 minutes before the discovery cut-off and a few weeks before trial. The only

1 plausible explanation is that BTL hoped its failure to disclose its witnesses would
 2 prejudice Defendants and Counterclaimant Summit Entertainment, LLC,
 3 (“Summit”) which is in line with BTL’s conduct in this action and the previous
 4 action against Defendants¹ that it voluntarily dismissed. (*See, e.g.*, Dkt. 66 at 5-10
 5 (denying BTL’s motion to amend, finding that there was ‘no other explanation [for
 6 its motion] than bad faith...to unnecessarily drag out these proceedings’ and that
 7 ‘BTLP is only attempting in bad faith to increase the cost of litigation to
 8 Defendants.’”).

9 Fed.R.Civ.P. 26 requires a party fully disclose all witnesses and information
 10 on which it intends to rely. The purpose of Rule 26 is to avoid surprise or “trial by
 11 ambush”. *Am. Stock Exch., LLC, v. Mopex, Inc.*, 215 F.R.D. 87, 93 (S.D.N.Y.
 12 2002); *U.S. ex rel. Schwartz v. TRW, Inc.*, 211 F.R.D. 388, 392 (C.D. Cal. 2002)
 13 (“Generally, the purpose of discovery is to remove surprise from trial preparation so
 14 the parties can obtain evidence necessary to evaluate and resolve their dispute.”).
 15 BTL attempts to sandbag Summit by including 19 witnesses on its witness list,
 16 including a purported expert witness who will apparently testify that BTL has
 17 allegedly suffered \$6.5 million in damages. BTL’s conduct should not be
 18 countenanced, tolerated or approved. The Court should grant Summit’s motion, and
 19 preclude BTL from calling the 19 undisclosed witnesses.

20 **II. RELEVANT FACTS**

21 **A. BTL’s First Lawsuit Against Defendants**

22 On May 28, 2013, BTL filed a 219-page “Anti-Trust Complaint” (1,300+
 23 pages with exhibits) against Defendants in the Southern District of New York, Case
 24 No. 1:13-cv-03584-JSR, asserting the following claims: (1) declaratory judgment
 25 that *Twiharder* constituted a fair use of the *Twilight* Motion Pictures; (2) violation of
 26

27 ¹ Defendant Lions Gate Entertainment Corp. was dismissed on October 20,
 28 2014 from this case on summary judgment. (Dkt. 95.)

1 the Digital Millennium Copyright Act (“DMCA”); (3) violation of the Sherman
 2 Antitrust Act; and (4) cancellation of certain of Summit’s TWILIGHT trademarks
 3 (the “First Lawsuit”). (Dkt. 71-5, ¶ 41.)

4 On June 28, 2013, Defendants filed a 28 U.S.C. § 1404 motion to transfer the
 5 First Lawsuit to the Central District of California. (Dkt. 71-5 ¶ 42.) On July 30,
 6 2013, Judge Jed Rakoff of the Southern District of New York granted Defendants’
 7 motion to transfer, and the First Lawsuit was transferred and assigned to the Hon.
 8 Margaret M. Morrow. (Dkt. 71-5 ¶ 43.)

9 On August 2, 2013, BTL served its “Initial Disclosures Pursuant to Fed. R.
 10 Civ. P. 26(a)(1)” in the First Lawsuit. (Bost. Decl. ¶ 2, Ex. A.) In its initial
 11 disclosures in the First Lawsuit, BTL disclosed the following 25 witnesses: (1) John
 12 Gearries; (2) Christopher Sean Friel; (3) Dean Cheley, Esq.; (4) Michael Donaldson,
 13 Esq.; (5) David Friedman, Esq.; (6) Wayne Levin, Esq.; (7) Stephenie Meyer; (8)
 14 Giovanni Cuarez; (9) Brendan Gallegher; (10) Melanie Miller; (11) Keith Black;
 15 (12) Christina Mulligan; (13) Jeffrey Rovin; (14) New Regency Enterprises; (15)
 16 21st Century Fox; (16) Chubb Insurance Company; (17) Hiscox USC; (18) Arthur J.
 17 Gallagher & Co.; (19) Richard Wolff; (20) Matthew Smith; (21) Jonathan McIntosh;
 18 (22) Benny Fine; (23) Rafi Fine; (24) Bob Marino; and (25) United States Patent
 19 and Trademark Office. (*Id.*)

20 After the First Lawsuit was transferred, Defendants filed a motion to dismiss
 21 BTL’s antitrust, trademark cancellation, and DMCA claims. (Dkt. 71-5 ¶ 44.) BTL
 22 did not defend the merits of these claims but, rather, filed a 186-page First Amended
 23 Complaint pursuant to FRCP 15(a)(1)(B), in which it voluntarily dismissed its
 24 trademark cancellation and DMCA claims, but continued to assert its antitrust and
 25 declaratory judgment claims. (Dkt. 71-5 ¶ 45.) Defendants filed a second motion to
 26 dismiss on October 22, 2013, which again sought dismissal of Plaintiff’s antitrust
 27 claim, and set hearing for December 2, 2013. BTL never filed an opposition. (Dkt.
 28 71-5 ¶ 46.) Instead, BTL launched a series of vexatious and meritless filings

1 disputing, among other things, the impartiality of Judge Morrow and accusing her of
 2 entering “counterfeit” orders. (Dkt. 71-5 ¶ 47.) BTL also refused to comply with
 3 its discovery obligations, forcing Defendants to file a motion to compel in the First
 4 Lawsuit. (Dkt. 71-5 ¶ 47.)

5 Ultimately, while Defendants’ motion to compel was pending, and after each
 6 of BTL’s meritless filings was denied, BTL voluntarily dismissed the First Lawsuit
 7 without prejudice pursuant to FRCP 41(a)(1) on December 13, 2013, the day its
 8 opposition to Defendants’ second motion to dismiss was due. (Dkt. 71-5 ¶ 48.)

9 **B. BTL’s Current Action Against Defendants**

10 The very next business day, December 16, 2013, BTL re-filed its lawsuit –
 11 the present action – again in the Southern District of New York (the “Second
 12 Lawsuit”). (Dkt. 71-5 ¶ 50.) BTL did not include any antitrust claims it allegedly
 13 had against Defendants in the Second Lawsuit. On January 6, 2014, Judge Rakoff
 14 *sua sponte* transferred the action – again – to the Central District of California.
 15 (Dkt. 71-5 ¶ 51.) Despite BTL’s refusal to serve Defendants with a copy of its
 16 Complaint, Defendants, on January 27, 2014, filed their Answer and Summit’s
 17 Counterclaims. (Dkt. 71-5 ¶ 52.)

18 On March 10, 2014, BTL filed an untimely (and, ultimately, entirely
 19 unmeritorious) motion to dismiss Summit’s Counterclaims. (Dkt. 71-5 ¶ 53.) On
 20 June 25, 2014, BTL filed its Answer to Summit’s Counterclaims. (Dkt. 71-5 ¶ 54.)

21 On July 16, 2014, BTL served its “Initial Disclosures Pursuant to Fed. R. Civ.
 22 P. 26(a)(1)” in the Second Lawsuit. (Bost Decl. ¶ 3, Ex. B.) In its initial disclosures
 23 in the Second Lawsuit, BTL disclosed the following 15 witnesses (ten less that it has
 24 disclosed in the voluntarily-dismissed First Lawsuit): (1) John Gearries; (2)
 25 Christopher Sean Friel; (3) Dean Cheley, Esq.; (4) David Friedman, Esq.; (5) Wayne
 26 Levin, Esq.; (6) Stephenie Meyer; (7) Giovanni Cuarez; (8) Brendan Gallegher; (9)
 27 Melanie Miller; (10) New Regency Enterprises; (11) 21st Century Fox; (12) Chubb
 28 Insurance Company; (13) Hiscox USC; (14) Arthur J. Gallagher & Co.; and (15)

1 Bob Marino. (*Id.*) These were the only FRCP 26 disclosures served by BTL in the
 2 Second Lawsuit. (*Id.*) On July 16, 2014, Defendants served their FRCP 26 initial
 3 disclosures. (Bost Decl. ¶ 3, Ex. C.)

4 On August 1, 2014, BTL filed a motion for leave to amend and, on August
 5 18, 2014, BTL filed its 135-page proposed First Amended Complaint. (Dkt. 71-5
 6 ¶ 55.)

7 On August 28, 2014, the Court issued its “Order (in Chambers) Setting Pre-
 8 Trial & Trial Dates,” and setting: (1) **October 6, 2014** as the deadline to file and
 9 serve memoranda of contentions of fact and law, exhibit lists and witness lists and
 10 the discovery cut-off; (2) **October 27, 2014** as the deadline to lodge the pre-trial
 11 conference order; (3) **November 3, 2014** as the date for the pre-trial conference; and
 12 (4) **November 25, 2014** as the first date for trial.

13 On September 15, 2014, the Court issued an Order Denying Plaintiff’s
 14 Motion for Leave to file an Amended Complaint. In the Order, the Court found that,
 15 in the First Lawsuit, BTL had “refused to comply with discovery,” “filed a series of
 16 vexatious and meritless filings” and voluntarily dismissed the First Lawsuit
 17 “ostensibly to avoid an adverse ruling” on Defendants’ motion to dismiss BTL’s
 18 antitrust claims. The Court also found that, in the Second Lawsuit, BTL had acted
 19 in bad faith to “unnecessarily drag out these proceedings” and “to increase the costs
 20 of litigation to Defendants.” (Dkt. 71-5 ¶ 56.)

21 On October 6 at 11:52 p.m. PST – 8 minutes before the close of discovery and
 22 mere weeks before trial – BTL filed its witness list. (Bost Decl. ¶ 4, Ex. D.) BTL
 23 disclosed the following **32** witnesses it intends to at trial, 19 of which were not
 24 disclosed in BTL’s or Defendants’ FRCP 26 initial disclosures (indicated in bold
 25 and underline): (1) John Gearries; (2) Christopher Sean Friel; (3) **Roger Senders,**
 26 **Esq.**; (4) **Theo Dumont**; (5) **Gabe Gomez**; (6) **Clint Keepin**; (7) **Richie Jr.**
 27 **Million**; (8) **Giorgio Caridi**; (9) **Allessandra [sic] Marinelli**; (10) **Michael C.**
 28 **Donaldson, Esq.**; (11) Dean Chaley, Esq.; (12) Giovanni Cuarez; (13) Brendan

Gallegher; (14) Melanie Miller; (15) **Bruce Nash**; (16) **Craig Moss**; (17) **Thomas Gewecke**; (18) Stephenie Meyer; (19) Ronald Hohausen; (20) David Friedman, Esq.; (21) **Mona Metwalli**; (22) **Ryan Black**; (23) **Richard Wolff**; (24) **Susan M. Hwang, Esq.**; (25) Robert Mason, Esq.; (26) Russell Binder; (27) Bob Marino; (28) **Arnon Milchan**; (29) **Jill Pietrini, Esq.**; (30) Wayne Levin; (31) **Georgina Ledvinka**; and (32) **Natalie Wilson, PhD.** (Dkt. 84.)

III. THE COURT SHOULD PRECLUDE BTL FROM CALLING ALL WITNESSES IT FAILED TO PROPERLY DISCLOSE PRIOR TO THE CLOSE OF DISCOVERY

A. Witnesses Not Properly Disclosed Should Be Excluded

Parties to a lawsuit must disclose evidence in support of their claims and defenses. Fed.R.Civ.P. 26(a). This duty to disclose includes the duty to disclose the names, addresses, telephone numbers, and subjects of information known for each individual likely to have discoverable information on which the disclosing party may rely. Specifically:

[A] party *must*, without awaiting a discovery request, provide to the other parties: ... the [1] *name* and, if known, [2] the *address* and [3] *telephone number* of each individual likely to have discoverable information—along with [4] *the subjects of that information*—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment

Fed.R.Civ.P. 26(a)(1)(A)(i) (emphasis and numbering added). The purpose, of course, is to allow the other parties to determine whether to seek discovery from such witnesses and to contact them and perhaps serve deposition or trial subpoenas on them:

The theory of disclosure under the Federal Rules of Civil Procedure is to encourage parties to try cases on the merits, not by surprise, and not by ambush. After disclosures of witnesses are made, a party can conduct discovery of what those witnesses would say on relevant issues, which in turn informs the party's judgment about which witnesses it may want to call at trial, either to controvert testimony or to put it in context. Orderly procedure requires timely disclosure so that trial efforts are enhanced and efficient, and the trial process is improved.

1 *Ollier v. Sweetwater Union High Sch. Dist.*, 2014 U.S. App. LEXIS 18020, at *36
2 (9th Cir. Sept. 19, 2014).

3 Pursuant to Fed.R.Civ.P. 37(c)(1), failure to timely and properly disclose
4 witnesses, without substantial justification, is grounds for their exclusion at trial.
5 Fed.R.Civ.P. 37(c)(1) (“If a party fails to provide information or identify a witness
6 as required by Rule 26(a) or (e), the party is not allowed to use that information or
7 witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure
8 was substantially justified or is harmless.”).² FRCP 37(c)(1) “gives teeth” to the
9 disclosure requirements “by forbidding the use at trial of any information required to
10 be disclosed by Rule 26(a) that is not properly disclosed.” *Hoffman v. Constr.*
11 *Protective Servs., Inc.*, 541 F.3d 1175, 1179 (9th Cir. 2008) (citation and quotation
12 omitted). Thus, “[u]nless the nondisclosure is ‘harmless’ or excused by ‘substantial
13 justification’ the court *must* impose this evidence preclusion sanction.” CAL. PRAC.
14 GUIDE FED. CIV. PRO. BEFORE TRIAL Ch. 11(II)-C § 11:341 (2014) (emphasis in
15 original); *see also Gerawan Farming, Inc. v. Prima Bella Produce, Inc.*, 2011 U.S.
16 Dist. LEXIS 52792, at *10 (E.D. Cal. May 17, 2011) (“Exclusion of improperly
17 disclosed expert witnesses is ‘self-executing...and automatic to provide a strong
18

19
20 ² *See also R&R Sails, Inc. v. Ins. Co. of the State of Pa.*, 673 F.3d 1240, 1246
21 (9th Cir. 2012) (FRCP 37(c)(1) “forbid[s] the use at trial of any information required
22 to be disclosed by Rule 26(a) that is not properly disclosed.”) (citation and quotation
23 omitted); *Patterson v. Balsamico*, 440 F.3d 104, 118 (3d Cir. 2006) (affirming the
24 district court’s order precluding belatedly-identified witnesses from testifying at
25 trial); *Jackson v. Am. Family Mut. Ins. Co.*, 2012 WL 845646, at **3-4 (D. Nev.
26 Mar. 12, 2012) (excluding testimony of plaintiff’s “untimely disclosed” witnesses—
27 which witnesses were disclosed on the last day of the discovery cut-off—and
28 finding that “[a] trial court’s case management efforts will be successful only if the
deadlines are taken seriously by the parties, and the best way to encourage that is to
enforce the deadlines”); *Jiminez v. Reno*, 2007 WL 1462798, at *2-3 (C.D. Cal.
2007) (precluding witnesses from testifying at trial who defendants—without
justification—had failed to timely disclose in initial or supplemental disclosures).

1 inducement for disclosure of material....”) (quoting *Yeti by Molly, Ltd. v. Deckers*
2 *Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001)).

3 “The party facing sanctions bears the burden of establishing that the delay
4 was either substantially justified or harmless.” *Cmtys. Actively Living Indep. &*
5 *Free v. City of Los Angeles*, 2011 U.S. Dist. LEXIS 118364, at *15 (C.D. Cal. Feb.
6 10, 2011). In making this determination, courts may be guided by the following
7 factors: (1) prejudice or surprise to the party against whom the evidence is offered;
8 (2) the ability of that party to cure the prejudice; (3) the likelihood of disruption of
9 the trial; and (4) bad faith or willfulness involved in not timely disclosing the
10 evidence. *Id.* at **15-16. BTL cannot meet its burden for any of the 19 undisclosed
11 witnesses.

12 **B. BTL Failed To Properly Disclose 19 Witnesses On Its Witness List**

13 At 11:52 p.m. PST on October 6, 2014 – eight minutes before the discovery
14 cut-off and mere weeks before trial – BTL disclosed 19 witnesses (identified on pp.
15 5-6 herein) for the first time in this action. Neither BTL nor Defendants disclosed
16 any of the 19 witness in their Rule 26 disclosures. (Bost Decl. ¶¶ 2-3, Exs. A-B.)
17 Despite the Court’s August 25, 2014 order setting this matter for trial on November
18 25, 2014, BTL never supplemented its initial disclosures as required by
19 Fed.R.Civ.P. 26(e). BTL’s failure to properly disclose the 19 witnesses is neither
20 justified nor harmless, and all of these witnesses should be excluded.

21 **C. BTL Has No Justification For Its Failure To Properly Disclose 19**
22 **Witnesses**

23 BTL has no justification for its failure to disclose 19 witnesses until 8 minutes
24 before the close of discovery and 7 weeks before trial.

25 There can be no dispute that BTL has known the identity of each of the 19
26 witness since at least as early as 2012, but failed to disclose them. This includes
27
28

1 witnesses that purportedly performed work in connection with the film *Twiharder*,³
2 witnesses to whom BTL apparently hoped to license *Twiharder* for distribution,⁴
3 executives or employees from unrelated film companies or who worked on
4 unrelated films,⁵ Defendants' legal counsel (including Defendants' trial counsel),⁶ a
5 purported expert in movie financial estimates and analysis,⁷ and purported
6 academics.⁸ BTL cannot claim that it just learned of these witnesses. BTL was well
7 aware of each witness for at least two years, but failed to disclose them as required
8 by FRCP 26.

9 BTL cannot identify any justification for its failure to disclose 19 witnesses
10 because it has none. BTL's failure to comply with its obligations under the FRCP is
11 part of a "larger pattern of dilatory litigation tactics" that includes filing and
12 dismissing lawsuits, failing to comply with discovery, failing to comply with the
13 Federal Rules of Civil Procedure, the Local Rules and this Court's orders, and filing
14 vexatious and meritless motions. (Dkt. 66); *Lema v. Comfort Inn, Merced*, 2012
15 U.S. Dist. LEXIS 5977, at **10-11 (E.D. Cal. Jan. 18, 2012) (excluding expert
16 because "[t]he Court observes that Defendants' failure to provide meaningful expert
17 disclosure is part of a larger pattern of dilatory litigation tactics that have included
18 repeated delays including multiple missed discovery deadlines and a series of
19 attorney substitutions. Unjustified late disclosure of expert witnesses is the type of
20 dilatory tactic that Rules 26 and 37 are intended to discourage.").

21
22 ³ Roger Senders, Esq. Theo Dumont, Gabe Gomez, Clint Keepin, Richie Jr.
23 Million, Giorgio Caridi, Alessandra Marinelli, and Michael C. Donaldson, Esq.

24 ⁴ Thomas Gewecke and Ryan Black.

25 ⁵ Craig Moss, Richard Wolff, and Arnon Milchan.

26 ⁶ Susan M. Hwang, Esq., Mona Metwalli, and Jill Pietrini, Esq.

27 ⁷ Bruce Nash. Mr. Nash and his expert report are the subject of Defendants'
28 Motion *in Limine* No. 2 filed concurrently herewith.

⁸ Georgina Ledvinka and Natalie Wilson, PhD.

1 **D. BTL's Failure To Disclose 19 Witnesses Is Not Harmless And, In**
2 **Fact, Substantially Prejudices Summit**

3 Trial is scheduled to begin on November 25, 2014, less than four weeks from
4 the date of this motion. The motion will be heard on the first day of trial. Thus,
5 even if the Court wanted to authorize Summit to take depositions or seek other
6 discovery of the non-attorney undisclosed witnesses, the only way it would be able
7 to would be to postpone trial, which the Court has indicated twice that it will not do.
8 Even if this motion were heard and decided prior to trial, and the Court decided to
9 allow Summit to take discovery from the witnesses who are not Summit's lawyers⁹,
10 Summit would still have seek discovery from 16 unique individuals, while
11 simultaneously preparing for trial. Furthermore, this discovery could in turn lead to
12 additional discovery, and a wholesale revision of the parties' witness and exhibits
13 lists and other pre-trial documents. Put simply, short of a long continuance of the
14 trial date, there is no remedy for the prejudice caused by BTL's failure to comply
15 with the FRCP. *See, e.g., Empresa Cubana del Tabaco v. Culbro Corp.*, 213
16 F.R.D. 151, 159-160 (S.D.N.Y. 2003) (excluding witnesses that were not properly
17 disclosed, in part, because "[t]he prejudice is not limited to the fact that the parties
18 would have to squeeze in two depositions in the two-month period before trial....
19 [I]t is clear that even the bare minimum of discovery required by fairness would at
20 the very least severely hamper trial preparation and likely could not be completed in
21 the two months before the trial is set to begin.").

22 Summit is also prejudiced because BTL has failed to identify these witnesses
23 and their relevant knowledge in its FRCP 26(a) initial disclosures. This renders the
24 scope of their potential testimony unlimited and makes it impossible for Summit to
25 prepare properly to cross-examine the non-attorney witnesses. Regardless, given

26 ⁹ Summit's lawyers that are included in the 19 undisclosed witnesses are:
27 Jill Pietrini, Susan Hwang, and Mona Metwalli. Summit separately seeks to exclude
28 other lawyer witnesses in its Motion *in Limine* No. 4.

1 that BTL agreed that the trial in this matter should last no longer than 5-7 days, it
2 would be impossible for it to present (and for Summit to effectively cross-examine)
3 the 16 undisclosed and non-attorney witnesses, let alone the 32 witnesses BTL
4 identified in its witness list. (Dkt. 47 at 3:18-19.)

5 **IV. CONCLUSION**

6 For the above reasons, Summit's Motion *in Limine* No. 1 should be granted in
7 its entirety.

8 Respectfully submitted,

9 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
10

11 Dated: October 28, 2014 By: /s/ Jill M. Pietrini
12 Jill M. Pietrini
13 Attorneys for Defendants and Counterclaimant
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1 **PROOF OF SERVICE**
2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 At the time of service, I was over 18 years of age and **not a party to this**
4 **action.** I am employed in the County of Los Angeles, State of California. My
business address is 1901 Avenue of the Stars, Suite 1600, Los Angeles, CA 90067-
6055.

5 On October 28, 2014, I served true copies of the following document(s)
6 described as **DEFENDANT AND COUNTERCLAIMANT SUMMIT**
7 **ENTERTAINMENT, LLC'S MEMORANDUM OF POINTS AND**
8 **AUTHORITIES IN SUPPORT OF MOTION IN LIMINE NO. 1 TO**
9 **EXCLUDE NON-DISCLOSED WITNESSES** on the interested parties in this
action as follows:

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13 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed
14 the document(s) with the Clerk of the Court by using the CM/ECF system.
15 Participants in the case who are registered CM/ECF users will be served by the
16 CM/ECF system. Participants in the case who are not registered CM/ECF users will
be served by mail or by other means permitted by the court rules.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct and that I am employed in the office
of a member of the bar of this Court at whose direction the service was made.

19 Executed on October 28, 2014, at Los Angeles, California.

20 /s/ Latrina Martin
21 Latrina Martin

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